

No. 7/23/DPD

Jakarta, July 8, 2005

CIRCULAR LETTER

to

ALL COMMERCIAL BANKS

IN INDONESIA

Subject : Restrictions on Rupiah Transactions and Foreign Currency Lending
by Banks

In regard to the enactment of Bank Indonesia Regulation Number 7/14/PBI/2005 dated June 14, 2005, concerning Restrictions on Rupiah Transactions and Foreign Currency Lending by Banks (State Gazette of the Republic of Indonesia Number 50 of 2005, Supplement to the State Gazette of the Republic of Indonesia Number 4504), it is necessary to enact regulations for implementation of restrictions on rupiah transactions and foreign currency transactions by Banks in a Circular Letter of Bank Indonesia as follows:

1. The prohibition on lending in rupiahs and/or in foreign currencies to Foreign Parties as referred to in Article 3 letter a of Bank Indonesia Regulation Number 7/14/PBI/2005 dated June 14, 2005, concerning Restrictions on Rupiah Transactions and Foreign Currency Lending by Banks (the PBI) does not include non-cash Credit or guarantees pertaining to investment activities in Indonesia meeting the following requirements:
 - a. backed by a counter guaranty from a bonafide overseas bank. This understanding of bank does not include an overseas branch office of the bank concerned; or

b. backed ...

- b. backed by a deposit of 100% (one hundred percent) of the value of the issued guarantee.
- 2. The restriction on Derivative Transactions as referred to in Article 7 paragraph (1) letter and paragraph (2) letter e of the PBI also applies to Non-Deliverable Forward (NDF) transactions.
- 3. Credit in the form of syndicated loan as referred to in Article 9 paragraph (1) of the PBI is Credit extended by more than one bank.

If participating lenders in syndicated Credit consist of Banks and overseas banks, the total overseas bank contribution must be greater than the Bank contribution.

For example:

A number of banks extend to PT. X syndicated Credit of Rp 1,000,000,000.- (one billion rupiahs), in which the syndicate consists of 3 (three) overseas banks and 2 (two) Banks. The three overseas banks must contribute at least Rp 510,000,000.- (five hundred and ten million rupiahs) and the two Banks contribute Rp 490,000,000 (four hundred and ninety million rupiahs). Accordingly the percentage contribution of the 3 (three) overseas banks must be no less than 51% and the percentage contribution of the 2 (two) Banks to the syndicated Credit is 49%.

- 4. Intraday rupiah and foreign currency overdrafts, as referred to in Article 9 paragraph (1) letter d of the PBI, as follows:

- a. Provisions for intraday overdrafts

Overdrafts shall meet the following provisions:

- 1) intraday overdraft provided to a funds beneficiary listed in the confirmation document and executed on the value date of payment listed in the confirmation;
- 2) to the value of funds to be received, as stated in the confirmation document, is added an account balance of the funds beneficiary in at

least the same or larger amount of the value of the payment transaction made;

- 3) the payment transaction is conducted after the prior receipt of the confirmation document referred to in number 2); and
- 4) receipt of funds as stated in the confirmation document must take place on the date of execution of payment.

b. Supporting documents for intraday overdrafts

Authenticated confirmation documents indicating the crediting of rupiah funds to the account concerned on the same day cover the following:

- 1) Society for Worldwide Interbank Financial Telecommunication (SWIFT) message functioning as notice to receive, customer transfer, delivery versus payment (for Securities), or other similar SWIFT document; or
- 2) tested telex.

For example:

- i. on March 1, 2005, the account opening balance of the Foreign Party is Rp 10,000,000.- (ten million rupiahs).
- ii. on the same date, the party concerned will order a payment resulting in an account debit of Rp 20,000,000.- (twenty million rupiahs), thus incurring an intraday overdraft of Rp 10,000,000.- (ten million rupiahs).

The intraday overdraft shall be permitted if the Bank receives documentary evidence of incoming funds for the account of the Foreign Party on March 1, 2005. The document may take the form of a SWIFT message functioning as notice to receive, customer transfer, delivery versus payment, or tested telex with an amount of no less than Rp 10,000,000.- (ten million rupiahs).

5. Exemptions to the prohibition on Rupiah Transfers to the rupiah accounts of Foreign Parties as referred to in Article 11 paragraph (1) letter a of the PBI are stipulated as follows:

a. Rupiah ...

- a. Rupiah Transfers in payment to Foreign Parties may be executed if there is economic activity as follows:
 - 1) divestiture of Private Placement held by a Foreign Party in Indonesia, and/or payment of dividend;
 - 2) sale of rupiah-denominated Securities by a Foreign Party, including sale of Bank Indonesia Certificates (SBIs), sale of shares, payment of dividend, and/or payment of coupon;
 - 3) receipt of payment on Foreign Party receivables in rupiahs, including payment for debt restructuring purposes;
 - 4) sale of export bill of exchange from a Foreign Party by means of Letter of Credit (L/C) transaction in rupiahs;
 - 5) sale of bill of exchange by means of Domestic Letter of Credit (SKBDN); and/or
 - 6) sale of merchandise and services in Indonesia, including receipt of remuneration/salary.
- b. Receipt of Rupiah Transfers by Foreign Parties as referred to in letter a must comply with the following regulatory provisions:
 - 1) for Rupiah Transactions valued up to Rp 100,000,000.- (one hundred million rupiahs), the Bank is required to hold a declaration from the Foreign Party of the nature of the underlying transaction for that transfer;
 - 2) for Rupiah Transfers in amounts greater than Rp 100,000,000.- (one hundred million rupiahs), whether in one transaction or several transactions to the same Foreign Party within one day, the Bank is required to possess information on the underlying transaction for the Rupiah Transfer, supported by documents from the Foreign Party at least as stipulated as follows:
 - a) For Rupiah Transfers for divestiture of Private Placement in Indonesia as referred to in item a.1), evidence of sale of shares.

b) For ...

- b) For Rupiah Transfers for sale of rupiah-denominated Securities by Foreign Parties, including sale of SBIs and sale of shares as referred to in item a.2), confirmation of sale of Securities, including but not limited to SWIFT message, Tested Telex, Tested Fax, and Reuters Monitor Dealing System (RMDS).
 - c) For Rupiah Transfers pertaining to payment of dividend, evidence of share ownership and a resolution of a General Meeting of Shareholders concerning payment of dividend. For Rupiah Transfers pertaining to payment of coupon, evidence of ownership of the Securities.
 - d) For Rupiah Transfers pertaining to receipt of payment of Foreign Party receivables in rupiahs, including for debt restructuring purposes as referred to in item a.3), evidence of a loan agreement.
 - e) For Rupiah Transfers pertaining to sale of export bills of exchange from Foreign Parties by means of L/C transactions in rupiahs as referred to in item a.4), including but not limited to bill of exchange, invoice, or Bill of Lading (B/L);
 - f) For Rupiah Transfers for the purpose of Sale of bill of exchange on the basis of Domestic L/C as referred to in item a.5), including but not limited to bill of exchange, invoice, or interisland B/L;
 - g) For Rupiah Transfers for Sale of goods and services in Indonesia, including remittances of income/salaries as referred to in item a.6), evidence shall include but not be limited to contract of work or invoice for sale and purchase of goods and services.
- c. Rupiah Transfers for purchase of Securities may be conducted under the following stipulations:
- 1) there is a document attesting to purchase of Securities, including but not limited to SWIFT message, tested telex, tested fax, or RMDS.

2) the ...

- 2) the term for holding the rupiahs prior to use for purchase of the Securities is no more than 2 (two) working days.
 - 3) at the time of completion of purchase of the Securities, the Bank shall hold evidence of Securities purchase in the form of evidence of realization of the share purchase (receive versus payment).
6. a. The exemption to the restriction on currency Derivative Transactions against rupiahs as referred to in Article 12 paragraph (1) letter a of the PBI includes outright forward currency sale or purchase against rupiahs conducted for settlement of investment activities.

The term of the outright forward currency transaction against rupiahs must be equal to the term of the settlement of the investment activity, and the outright forward currency transaction against rupiahs shall be conducted after the date of the investment transaction.

Such outright forward currency transactions against rupiahs must be supported by the following documents:

- 1) for outright forward currency selling transactions against rupiahs for purchase of shares, as follows:
 - a) confirmation of purchase of shares as agreed by the buyer and seller of the shares, including but not limited to by means of SWIFT message, on the date of the outright forward currency selling transaction against rupiahs; and
 - b) evidence of share purchase in the form of authenticated SWIFT message serving as evidence of realization of share purchase (receive versus payment) on the value date of the outright forward currency selling transaction against rupiahs.

For example:

If a Foreign Party (global broker, or global custody, or foreign investor) buys shares on June 6, 2005, for settlement on June 9, 2005, and if the Foreign Party wishes to conduct an outright forward

currency ...

currency selling transaction against rupiahs, the outright forward currency selling transaction against rupiahs shall be conducted on June 6, 2005, for the forward date of June 9, 2005.

- 2) for outright forward currency buying transactions against rupiahs for sale of shares, as follows:
 - a) confirmation of sale of shares as agreed by the buyer and seller of shares, including but not limited to SWIFT message, at the date of the outright forward currency buying transaction against rupiahs; and
 - b) evidence of sale of shares in the form of authenticated SWIFT message functioning as evidence of realization of sale of shares (delivery versus payment), at the value date of the outright forward currency buying transaction against rupiahs.

For example:

If a Foreign Party (global broker, or global custody, or foreign investor) sells shares on June 1, 2005, for settlement on June 4, 2005, and if the Foreign Party wishes to conduct an outright forward currency buying transaction against rupiahs, the outright forward currency buying transaction against rupiahs shall be conducted on June 1, 2005, for the forward date of June 4, 2005.

- b. Derivative Transactions for investment activities in Indonesia, export-import, and/or domestic trade, as referred to in Article 12 paragraph (1) of the PBI may be conducted by Foreign Parties, whether directly or indirectly.

For example:

A local domestic company enters into a hedging transaction with a Bank to meet its foreign currency obligations as part of investment activities in Indonesia. Accordingly, the Bank is permitted to cover this position with respect of the Foreign Party.

7. Exemptions on restrictions on foreign currency against rupiah Derivative Transactions conducted for hedging purposes as referred to in Article 12 paragraph (1) letter a of the PBI are stipulated as follows:

a. If investment is purchase of Securities, as follows:

- 1) The underlying transaction for purchase of the Securities is calculated on the basis of the basket of securities at market value in accordance with the applicable regulatory provisions for the securities concerned.
- 2) The total value of the basket of securities is at least equal to hedging value for the duration of the hedging period.

If during the hedging term, there is a decline in market value of the underlying Securities, the value of the underlying Securities shall be increased to ensure that the hedging value remains equal to the underlying value at the time of entering into the hedging transaction.

3) For example:

a) If a Foreign Party has a basket of securities as follows:

- i. Five-year bonds reaching maturity in one month, with market value of Rp 100,000,000.- (one hundred million rupiahs).
- ii. PT. ABC shares listed on the capital market at a market price of Rp 50,000,000.- (fifty million rupiahs).
- iii. One-year PT. DEF Corporate Bonds with market value of Rp 10,000,000.- (ten million rupiahs), reaching maturity in 3 months.

the total portfolio usable as underlying transaction is therefore Rp 160,000,000.- (one hundred and sixty million rupiahs).

- b) The Bank may hedge the portfolio for a term of no less than 3 (three) months and nominal hedging value shall be no more than Rp 160,000,000.- (one hundred and sixty million rupiahs).
- c) If the abovementioned 5 (five) year Bonds reach maturity prior to expiration of the hedging period, the Foreign Party shall be

required ...

required to purchase replacement Securities at equal value to the maturing bonds, namely Rp 100,000,000.- (one hundred million rupiahs).

- d) If the abovementioned PT. ABC shares valued at Rp 50,000,000.- (fifty million rupiahs) and used as underlying instruments are sold, the Foreign Party shall purchase replacement shares at equal value to the sold shares, i.e., for no less than Rp 50,000,000.- (fifty million rupiahs).

- 4) If within the hedging term, Securities are added to the same portfolio and the Foreign Party intends to hedge the additional Securities, the Foreign Party shall be required to enter into a new hedging contract with a term of no less than 3 (three) months and value of no more than the added Securities.

For example:

A Foreign Party has a share portfolio of Rp 50,000,000.- (fifty million rupiahs) on June 1, 2005, and on the same date takes out hedging by opening a derivative transaction for Rp 30,000,000.- (thirty million rupiahs) with a term of 3 (three) months. On June 7, 2005, the Foreign Party purchases Government Bonds worth Rp 40,000,000.- (forty million rupiahs), bringing the portfolio value held by the foreign party to Rp 90,000,000.- (ninety million rupiahs). If the Foreign Party intends to hedge the additional Government Securities, the Foreign Party must open a new hedging contract for no more than Rp 40,000,000.- (forty million rupiahs) and a term of no less than 3 (three) months.

- b. If the investment is extension of Credit, as follows:

- 1) The underlying transaction shall be calculated on the basis of the disbursed amount of Credit.

2) The ...

- 2) The underlying transaction for extension of Credit in the form of syndicated Credit, calculated according to the hedging that may be taken out by the Foreign Party, shall not exceed the contribution of the Foreign Party to the syndicated Credit.

If a syndicated Credit is arranged with more than one Foreign Party, each Foreign Party in the syndicated Credit may hedge with hedging value not exceeding the total contribution of that Foreign Party to the syndicated Credit.

Example:

Syndicated Credit is extended by five overseas banks to PT. X is Rp 1,000,000,000.- (one billion rupiahs). Each of the foreign banks contributes Rp 200,000,000.- (two hundred million rupiahs). The hedging value that may be taken out by each of the overseas banks is therefore no more than Rp 200,000,000.- (two hundred million rupiahs).

- c. If investment is in the form of Private Placement, the underlying transaction is payment of capital and retained earnings, but shall not include dividend and profit for the current year.
8. The supporting documents for investment activities that may be used as underlying transactions for Derivative Transactions, namely Private Placement, extension of Credit, and purchase of Securities as referred to in Article 12 paragraph (2) of the PBI, are as follows:
- a. For Private Placements.
- 1) Realized Private Placements shall be supported by evidence of the Private Placement stating nominal value, identity of the payer, evidence of payment, and identity of the beneficiary of the Private Placement.

- 2) Private Placement conducted under auction and not realized as referred to in Article 13 of the PBI shall be supported by documents as follows:
 - 1) evidence of inclusion in the short list; and
 - 2) signed sale and purchase agreement or evidence of winning bid;
- b. Extension of Credit shall be supported by evidence of the Credit agreement and evidence of the outstanding loan.
- c. For purchase of Securities, Banks are required to have evidence of purchase of Securities by the Foreign Party in the form of a SWIFT message functioning as receive versus payment and statement of holdings.

Customers not enrolled with SWIFT may use a substitute document comprising the recapitalization of Securities holding, issued by the custodian bank concerned, as evidence of ownership of the Securities. The recapitalization of Securities holdings must state dates to prove that from the commencement of hedging to the maturity of hedging, the party concerned continued to hold an outstanding value of Securities at least equal to the hedging value.

- d. Derivative Transactions for hedging taken out by a Foreign Party must be supported by a statement bearing sufficient revenue stamp, made by the Foreign Party concerned, with contents covering at least the following:
 - 1) Name and identity of the Foreign Party;
 - 2) Name of the Bank;
 - 3) Nominal value of the derivative transaction conducted by the Foreign Party with the Bank for hedging of an underlying position;
 - 4) Written statement from the Foreign Party, stating that the hedging of the underlying position is not being used as an underlying position for a derivative transaction with the same Bank or another Bank.

9. Supporting documents for merchandise exports from Indonesia and merchandise imports into Indonesia by means of L/C include but are not limited to bill of exchange, invoice, and bill of lading.
10. Supporting documents for domestic trade by means of Domestic L/C (SKBDN) include but are not limited to bill of exchange, invoice, and interisland bill of lading.
11. In regard to Article 16 of the PBI, Banks are required to submit all reports of Derivative Transactions to Bank Indonesia, ensuring their accuracy, correctness, and completeness, as stipulated in the applicable Bank Indonesia provisions concerning reporting of foreign exchange transactions. If no reporting system is available that can accommodate the reporting of Derivative Transaction buying positions of Banks with Foreign Parties, the Bank shall submit a written report in hard copy, using the format presented in appendix 1 through appendix 4.
12. Sanctions as referred to in Article 17 paragraph (1) of the PBI shall be calculated on a cumulative basis for the total amount of the violating transactions multiplied by 10% (ten percent).
The financial penalty for these violations shall be imposed by debiting the rupiah demand deposit account of the Bank at Bank Indonesia. Imposition of the financial penalty shall be based on the calendar year.
For example:
 - a. If a Foreign Party holds underlying transactions of USD 90,000,000 (ninety million US dollars) and the value of the hedging contract of that Foreign Party is USD 100,000,000 (one hundred million US dollars), sanctions shall be imposed in respect of the shortfall in the underlying value, namely 10% (ten percent) of USD 10,000,000 (ten million US dollars) for each day of violation.
 - b. If a Foreign Party opens a Derivative Transaction of USD 5,000,000 (five million US dollars) without an underlying transaction, the sanctions

shall ...

shall be imposed at 10% (ten percent) of USD 5,000,000 (five million US dollars). If the Foreign Party has underlying transactions of only USD 1,000,000 (one million US dollars), the sanctions shall be imposed at 10% (ten percent) of USD 4,000,000 (four million US dollars) for each working day of violation.

- c. A Bank provides 3 intraday overdrafts to Foreign Party A in amounts of Rp 10,000,000.- (ten million rupiahs), Rp 30,000,000.- (thirty million rupiahs), and Rp 25,000,000.- (twenty five million rupiahs) respectively. The violating amount calculated from this violation in the intraday overdraft is Rp 65,000,000.- (sixty-five million rupiahs), i.e., the cumulative value of the overdraft violation.

In addition, the Bank also conducts a USD/IDR forward selling transaction with Foreign Party B in the amount of USD 5,000,000 (five million US dollars) without an underlying investment transaction. The violating amount is calculated at USD 5,000,000 (five million US dollars), multiplied by the BI middle rate on the transaction date. The assumed exchange rate is Rp 8,000 to the USD, and therefore the violating amount is Rp 40,000,000,000.- (forty billion rupiahs).

The total violating amount comes to Rp 40,065,000,000.- (forty billion sixty-five million rupiahs) and thus the financial penalty is 10% (ten percent) of the abovementioned total violating amount, i.e., Rp 4,006,500,000.- (four billion six million five hundred thousand rupiahs).

13. Any Bank which at the time of enactment of this Circular Letter is still holding an outstanding, unmatured Derivative Transaction position as referred to in Article 6 of the PBI and Article 7 of the PBI, may continue to exercise the position of the Derivative Transaction until the maturity date, but no rollover shall be permitted for that Derivative Transaction.

With ...

With the enactment of this Circular Letter, Circular Letter of Bank Indonesia Number 3/5/DPD dated January 31, 2001, concerning Restrictions on Rupiah Transactions and Foreign Currency Lending by Banks is revoked and declared no longer valid.

The provisions in this Circular Letter shall come into force on July 14, 2005.

For the public to be informed, it is ordered that this Circular Letter be promulgated in the State Gazette of the Republic of Indonesia.

Kindly be informed.

BANK INDONESIA,

ASLIM TADJUDDIN
DEPUTY GOVERNOR